

Indiana Department of State Revenue

Revenue Ruling #2004-04ST

December 30, 2004

Notice: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales and Use Tax—Medical Devices

Authority: IC 6-2.5-5-18(a); IC 6-2.5-1-25; 45 IAC 2.2-5-28(h); IC 6-2.5-8-8.

STATEMENT OF FACTS

The taxpayer manufactures and sells a proprietary dental product for treating dental malocclusion—the misalignment of teeth. Aligners cover a patient's teeth and are commonly are worn as a pair, over the upper and lower teeth. They are removed for meals, brushing, or flossing. Each aligner is worn for approximately two weeks, then is discarded; the patient then uses the next aligner in the progressive set. The taxpayer seeks a ruling as to whether the aligners are exempt from sales and use tax under IC 6-2.5-5-18(a).

DISCUSSION

IC 6-2.5-5-18(a), **Medical equipment, supplies, and devices**, states:

(a) Sales of durable medical equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

IC 6-2.5-1-25 defines **prosthetic device** to mean: a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

- (1) artificially replace a missing part of the body;
- (2) prevent or correct physical deformity or malfunction; or
- (3) support a weak or deformed part of the body.

The face of IC 6-2.5-5-18(a) refers specifically to dental prosthetics. The application of the definition of **prosthetic** in IC 6-2.5-1-25(2) encompasses the aligners; they correct misaligned teeth. 45 IAC 2.2-5-28(h) further supports the exemption—stating that **medical devices** are those items, the use of which is directly required to correct injury to, or the malfunction of the purchaser's body.

In addition, the aligners are transferred to the patient and consumed directly by the patient—which is necessary for exemption from sales and use tax. It should be noted, however, when applicable—the seller is required to receive a proper Indiana exemption certificate from the purchaser, as required under IC 6-2.5-8-8.

RULING

The Department rules that the sale of the propriety dental aligners is exempt from sales and use tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

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